

1 Keith J. Tierney
2 Trustee
3 10580 N. McCarran Blvd., Bldg. 115-403
Reno, NV 89503
(775) 622-3850

E-Filed 6/25/2010

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6 **UNITED STATES BANKRUPTCY COURT**
7 **DISTRICT OF NEVADA**

8 IN RE:

9 WES CONSTRUCTION COMPANY,
INC., a Nevada corporation,

10 HEAVY EQUIPMENT SERVICES,
LLC

A Nevada limited liability company,

11 TRUCKING SERVICES, LLC,
A Nevada limited liability company,

12 Debtors.

CASE NOS. BK-N-09-52177-GWZ
BK-N-09-52178-GWZ
BK-N-09-52181-GWZ
(Jointly administered under 09-52177)

13 CHAPTER 7

**DECLARATION OF STEVE A.
BENNYHOFF PURSUANT TO RULE
2014**

14 **Hearing Date: N/A**

Hearing Time:

15 _____ /

16 Steve A. Bennyhoff, under penalty of perjury of the laws of the United States,
17 declares:

18 1. I am a resident of Washoe County, Nevada.

19 2. I received a degree in accounting from the University of Montana in 1974
and became a certified public accountant in 1983. My certificate has been inactive, by
21 choice, since 1990.

22 3. Since 1988 I have worked in the private sector, primarily in charge of
23 financial operations, for a variety of companies. My resumé is attached as Exhibit A.

24 4. The Trustee has engaged me as an independent contractor to perform basic
25 accounting services for the estate to fulfill his duties under §704(a). The list of duties
26 includes but has not been limited to the following:

27 • Made calculations and booked journal entries adjusting the accounts for the
28 items sold at the Ritchie Bros. and Lightning auctions.

- 1 • Located the hard copy payroll records and created spreadsheets to capture
2 the weekly payroll totals to be able to prepare W-2s, as well as capture payment
3 information for 1099s.
- 4 • Purchased software and supplies, then created, printed and mailed W-2's
5 and 1099's.
- 6 • Terminated AT&T land and wireless lines still active in February.
- 7 • Terminated licenses, policies, and services no longer needed by WES
8 Construction.
- 9 • Interfaced with insurance companies and State agencies to provide data to
10 assist with year-end information reporting and audits.
- 11 • Reconciled Heritage Bank checking accounts and Hartman Trust account to
12 WES Construction general ledger.
- 13 • Interfaced with Lisa and Kandi on an on-going basis to help answer
14 questions and review
- 15 • Facilitated the boxing and return of WES Construction's mailing machine
16 to Pitney Bowes.

17 In addition, these tasks still need to be completed:

- 18 • Coordinate with R Construction in preparing an income statement that
19 determines the net profit resulting from Roy Walker's completion of the utility
20 contracts that were unfinished as of 9/1/09.
- 21 • Reconstruct from hard copy reports financial information for WES
22 Construction to enable the accounting firm to prepare financial statements and tax
23 returns for 2009.
- 24 • Calculate profit/loss on the sale and book journal entries for WES Trucking,
25 Inc. auction items.
- 26 • Prepare trial balances for 2008 and 2009 for WES Trucking, Inc. and
27 Commercial Snow Clearing LLC to give to accounting firm for preparation and tax
28 return filing.

- 1 • Compile data to provide to ING to be able to conduct non-discrimination
2 tests and prepare Form 5500 for the 401K program.
3 • Continue to respond to requests for information in regards to unemployment
4 claims, audits of payroll information for 2009 from Nevada and California, sales
5 and use tax report, and various other requests until no longer necessary.

6 5. I have not been asked by the Trustee to audit or otherwise certify any
7 accounting results to the Trustee. I have been asked by the Trustee to make certain the
8 information I do prepare is in a form that can be passed on to a certified public accounting
9 firm for purposes of preparing tax returns for the Debtor estates.

10 6. The terms of my financial compensation to which the Trustee has agreed,
11 are as follows:

12 \$80/hr subject to increase or decrease in the Trustee's judgment

13 7. Between 2006 and 2008, I was the Controller for Landmark Homes &
14 Development, Inc ("landmark"). Landmark had a 'sister' corporation, Paragon. For a
15 portion of the time I was at Landmark, Michael Brandt ("Brandt") was the chief financial
16 officer for Paragon and we interacted on certain accounting matters which affected both
17 companies.

18 8. During the time I was at Landmark, the CFO Group was a contract
19 accounting firm for the company and I was introduced to Dan Allen ("Allen"); however, I
20 had no interaction with Mr. Allen in the course of my duties at Landmark.

21 9. In 2008, I left Landmark to work for Golden Gate Petroleum ("Golden
22 Gate") as its controller.

23 10. During my tenure at Golden Gate, Brandt contacted me and advised that he
24 was then working for WES. He contacted me because WES was looking for a petroleum
25 products supplier for its equipment located on USA Parkway at the Tahoe Reno Industrial
26 Center. I referred Brandt to the individual at Golden Gate who handled those matters.
27 Other than having lunch every four to six months, I had no regular contact with Brandt.

28 11. Sometime in 2008, Brandt invited me and a number of other individuals to

1 his Lake Almanor cabin for a weekend of fishing and playing golf. I was unable to
2 attend.

3 12. In April 2009, while I was still working at Golden Gate, I was again invited
4 to Brandt's Lake Almanor cabin and I was able to attend for a weekend. Other people
5 there for that weekend included Allen and Mark Smith.

6 13. It was not until approximately September 2009 that I heard from Brandt
7 again. He called me to find out what I was doing and whether I might be interested in
8 doing some work for WES. He explained that he was no longer acting as the CFO but
9 that someone was needed to handle various financial matters for WES. I indicated a
10 willingness to consider helping out at WES to fill such a role. Subsequently, Mark Smith
11 called me to discuss working at WES, to which I agreed.

12 14. I began working on a part time basis at WES on September 29, 2009 and for
13 the first two weeks I spent time working with Brandt getting familiar with the books and
14 records and Brandt made himself available to answer questions. At the same time Brandt
15 was working with Ritchie Bros. preparing equipment for the auction at Patrick.

16 15. In April 2010 I spent another two day weekend at Brandt's Lake Almanor
17 cabin. Other than the two trips to Lake Almanor, I have not socialized with Brandt or
18 Allen. However, if I have a question about something at WES, Brandt is always willing
19 to answer my questions to the extent he is able to do so.

20 16. I do not believe that I hold or represent an interest adverse to the estate and
21 I believe I am a disinterested person as that term is defined in 11 U.S.C. § 101(14). I am
22 not a creditor, an equity interest holder or an insider of WES or any of its affiliated
23 entities. I was not an officer, director or employee of WES during the 2 year period prior
24 to the filing of the chapter 11 petition in July 2009. I do not have an interest adverse,
25 material or otherwise, to the interest of the estate or any class of equity security holders by
26 reason of any direct or indirect relationship to, connection with, or interest in, WES or for
27 any other reason.

28 17. I have no connection with WES or its affiliated entities, its creditors or any

1 other party in interest, their respective attorneys and accountants, the United States
2 Trustee or any person employed in the Office of the United States Trustee.
3 DATED this 25th day of June, 2010.

4 Steve A. Bennyhoff
5 Steve A. Bennyhoff

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EXHIBIT A

STEVE A. BENNYHOFF

2835 Santa Ana Drive
Reno, NV 89502
(775) 722-3647
benny1500@aol.com

CONTROLLER

Summary

Diversified Accounting and Financial Management experience supported by: CPA and BS in Business Administration/Accounting...Well-developed communication skills... Experienced with major software programs...and Proven abilities in rapid growth and expansion situations.

Key strengths include:

* Problem Solving	* Integrity
* Cash Management	* Planning and Forecasting
* Organizational Ability	* Computer Literate
* Detail-oriented	* Positive Mental Attitude

Professional Accounting Experience

CONTROLLER, Golden Gate Petroleum of Nevada, LLC 2008

- Responsible for accounting for 6 convenience stores in Northern Nevada
- Set up new software to track all store activities
- Supervise 3 accountants and manage corporate office

CONTROLLER, Landmark Homes & Development, Inc. 2006-
2008

- Responsible for cash management and reporting
- Supervise 4 accountants and review their work on an ongoing basis
- Work with CFO on ad hoc reports and projects

TREASURER, Frontier Homes, Inc. 2004-2006

- Responsible for all accounting functions in this family-owned custom log home business
- Moved accounting to Quickbooks
- Established Policies & Procedure Manual
- Developed budget and annual goals with management

CONTROLLER, Kokopelli Property Management 2000-2004

- Responsible for the accounting for all long-term (280) and short-term properties (50), 2 Home-Owners Associations, commercial building, office accounting

- Prepared and distributed monthly financial statements for all owners
- STEVE A. BENNYHOFF**

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- Utilized Yardi software to account for all properties
- Interfaced with owners, vendors, and renters on a daily basis
- Analyzed historical data to assist ownership in strategic planning
- Assisted owner with personal affairs on Quicken

CONTROLLER, Meeting Services, Inc. **1997-2000**

- Responsible for all financial operations of this audio/visual rental company
- Tightened accountability and documentation for per diem and expense reporting
- Established procedures for bank line of credit reporting
- Established new Credit and Collection policy
- Wrote Travel Policy and established corporate credit card program

CONTROLLER, Executive Business Services, Inc. **1994-1997**

- Voting Member of Board of Directors of this software development company
- Responsible for all financial operations and human resource functions
- Increased A/R collection time by two weeks by collecting aggressively
- Reduced costs by systematically changing to best, lowest cost service providers
- Wrote Employee Manual, Injury and Illness Preparedness Program, Travel Policy

CONTROLLER, NCE Computer Group **1988-1991**

- Responsible for all financial operations, including supervision of A/R, A/P, cash management, credit and collections, payroll, preparation of financial statements, sales tax reports
- Responsible for human resource functions, including hiring and firing of personnel, selection of medical and dental programs, administration of 401K program

STATE OF MONTANA

Financial Assistant, MT University System 1987	1980-
Assistant Administrator, MT Teachers' Retirement System	1979-1980
Management Analyst, MT Department of Administration	1978-1979
Senior Accountant, MT Department of State Lands	

1976-1978

Education

BS in Business Administration/Accounting--University of Montana
CPA – State of Montana (inactive)

Software Expertise

Microsoft Word & Excel, Quickbooks